Dairy Industry Restructuring (Export Licences Allocation) Amendment Act 2025

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Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Dairy Industry Restructuring (Export Licences Allocation) Amendment Act 2025.

2 Commencement

This Act comes into force on 1 May 2025.

3 Principal Act

This Act amends the Dairy Industry Restructuring Act 2001.

Part 1
Amendments relating to international trade with designated markets

4 Section 5 amended (Interpretation)

(1) In section 5(1), repeal the definition of **allocation period**.

(2) In section 5(1), replace the definition of **eligible participant** with:

> **eligible participant**, in relation to the allocation of export licences for a designated market, means a person who—
>
> (a) is eligible to hold an export licence; and
>
> (b) based on their export volume history, is entitled to receive a share of export licences (not including reserve export licences) that equates to a volume of 20 tonnes or more of the product for the quota year that the participant is applying for

(3) In section 5(1), definition of **export licence**, after "section 26", insert "and includes a reserve export licence".

(4) In section 5(1), insert in their appropriate alphabetical order:

eligible reserve participant, in relation to the allocation of reserve export licences for a designated market, means a person who—

(a) is eligible to hold an export licence; and

(b) based on their export volume history, is one of the following:

(i) a person who does not fall within the definition of eligible participant because they do not meet the criteria set out in paragraph (b) of that definition:

(ii) an eligible participant who is only entitled to receive a share of export licences (not including reserve export licences) that equates to a volume of less than 200 tonnes of the product for the quota year that the participant is applying for

export volume history, in relation to a person eligible to hold an export licence, means the total volume of products exported under a Tariff heading to all export markets over the previous 3 consecutive seasons

reserve export licence means an export licence that has been reserved under section 26AA

reserve portion means the portion of available export licences, per designated market, that have been reserved under section 26AA

Tariff heading has the same meaning as in section 2(1) of the Tariff Act 1988

total export volume history means the combined total volume of all products exported under a Tariff heading to all export markets over the previous 3 consecutive seasons by the eligible participants and eligible reserve participants who are seeking to be allocated export licences in the upcoming quota year

Inclusion of non-bovine dairy for export purposes

5 New section 20 inserted (Application of this subpart)

Before the cross-heading above section 21, insert:

20 Application of this subpart

In this subpart, any reference to dairy products includes—

(a) dairy material extracted from any milking animal; and

(b) any dairy material derived or processed from milk extracted from any milking animal.

Allocation of export licences

6 Section 26 amended (Later allocation of export licences)

(1) In the heading to section 26, replace "**Later allocation**" with "**Allocation**".

(2) In section 26(3), replace "subsection (4)" with "subsection (4) or section 27".

7 New section 26AA inserted (Reserve export licences)

After section 26, insert:

26AA Reserve export licences

(1) In this section, the definition of **export licence** in section 5 does not include a reserve export licence.

(2) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations that reserve 10% of export licences per quota year for any 1 or more designated markets listed in Schedule 5A if the available export licences equate to a volume of 10,000 tonnes or more of product in that designated market.

(3) Before making a recommendation under subsection (2), the Minister must be satisfied that—

(a) there is demand for reserve export licences from eligible reserve participants; and

(b) there is evidence that those persons will be able to use the reserve export licences; and

(c) the proposal to reserve licences is consistent with any import licensing and other requirements in the designated market; and

(d) the proposal to reserve licences is consistent with the purpose in section 21(1); and

(e) consultation has been undertaken with current holders of export licences to—

(i) assess the historical utilisation of their export licences; and

(ii) ascertain the potential impact that reserving export licences will have on their business; and

(iii) ascertain their views on the creation of a reserve portion.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

8 New section 27 inserted (Quota compliance programmes)

After section 26B, insert:

27 Quota compliance programmes

(1) This section applies to eligible participants and eligible reserve participants who did not obtain an approved quota compliance programme under the Animal Products (Regulated Control Scheme—Dairy Export Quota Products) Regulations 2008, for any 1 or more of the 3 quota years immediately before the quota year that the participant is applying for and in which they were also allocated an export licence.

(2) Before those participants can be allocated licences under section 26(3), they must submit a statutory declaration to the Minister or a person authorised by the Minister setting out—

(a) the reasons why the participant did not obtain a quota compliance programme for each of the quota years they did not obtain one; and

(b) the reasons why the participant considers they should still be allocated an export licence or licences for the upcoming quota year.

(3) If the Minister receives a statutory declaration under subsection (2), then the Minister may decide to allocate export licences to the participant if—

(a) they have been allocated licences in at least 1 of the 3 previous quota years; and

(b) they have not obtained an approved quota compliance programme for the corresponding quota year or years that they were allocated a licence; and

(c) the Minister is satisfied that the failure to obtain a quota compliance programme was—

(i) out of the participant's control, for example,—

(A) if the participant was not able to export their products for which they had been allocated licences due to severe weather events or natural disasters that impacted on domestic productions, or disruption in a destination market due to war; or

(B) there was or is a delay to the receipt of a quota compliance programme, for example due to a lack or shortage of auditors; or

(ii) for any other reason that the Minister is satisfied explains the participant's failure to obtain a quota compliance programme in the given quota year.

(4) The Minister must provide written notice to the participant of their decision under subclause (3) within a reasonable time frame, and in any event before the notification of allocations is made in the *Gazette* under clause 6 of Schedule 5B.

(5) However, in subsection (1), **any 1 or more of the 3 quota years** does not include any of the 2023, 2024, or 2025 quota years.

9 Schedule 5B replaced

Replace Schedule 5B with the Schedule 5B set out in the Schedule of this Act.

Part 2
Miscellaneous amendments

10 Section 27A amended (Increases or reductions in rights to export to designated markets)

(1) In section 27A(2) and (3), replace "an allocation period" with "a quota year".

(2) In section 27A(5), replace "allocation period" with "quota year".

11 Section 29A amended (Quota trade completed before trade at normal tariff)

In section 29A(5)(b), after "eligible participants", insert "and eligible reserve participants".

12 Section 29G amended (Power to require information)

(1) In section 29G(1), replace "eligible participant or an employee or agent of an eligible participant" with "eligible participant, eligible reserve participant, or an employee or agent of a participant".

(2) Replace section 29G(3) with:

(3) An eligible participant, eligible reserve participant, or an employee or agent of a participant may not refuse to answer a question under subsection (1) on the ground that the answer would be likely to incriminate the eligible participant or eligible reserve participant.

(3) In section 29G(4), after "eligible participant", insert "or eligible reserve participant" in each place.

13 Section 29H amended (Power to audit milk solids collection data)

(1) In the heading to section 29H, replace "**milk solids collection data**" with "**export volume history**".

(2) In section 29H(1), replace "milk solids collection data received from an eligible participant" with "export volume history received from an eligible participant or eligible reserve participant".

14 Section 31 amended (Offences)

(1) In section 31(3), replace "and is liable for the following, who provides a false declaration in relation to milk solids collection data contrary to" with "and

is liable on conviction for the following, who provides a false declaration in relation to the information or documents required under".

(2) In section 31(3)(b), delete "or a term of imprisonment not exceeding 3 months, or both".

15 Section 42 replaced (Disclosure of information)

Replace section 42 with:

42 Disclosure of information

(1) Subject to subsection (3), for the purposes of administering this Act and the Customs and Excise Act 2018,—

(a) the Ministry may share any relevant information that it collects or holds under any legislation with the New Zealand Customs Service; and

(b) the New Zealand Customs Service may share any relevant information that it holds under any legislation with the Ministry; and

(c) the Minister may share any relevant information that they collect or hold under any legislation with the Minister of Customs; and

(d) the Minister of Customs may share any relevant information that they hold under any legislation with the Minister.

(2) Without limiting subsection (1), information may be shared between the Ministry and the New Zealand Customs Service, or between the Minister and the Minister of Customs, for the following purposes:

(a) to allow the Ministry or Minister to assess and calculate export volume history and total export volume history in relation to the allocation of export licences:

(b) to allow the Ministry or Minister to verify that an eligible participant or eligible reserve participant is providing correct information:

(c) to allow the Minister to decide whether to recommend the making of secondary legislation under this subpart.

(3) Information shared under subsection (1) must not include any personal information *(see* definition in section 5), unless the information relates to a sole trader applying for export licences under this Act.

(4) The Ministry and the New Zealand Customs Service must ensure that appropriate protections are or will be in place to maintain the confidentiality of information shared under this section.

16 Dairy Industry Restructuring (Reallocation of Licences) Order 2007 revoked

The Dairy Industry Restructuring (Reallocation of Licences) Order 2007 (SR 2007/162) is revoked.

Schedule
Schedule 5B replaced

s 9

Schedule 5B
Rules for allocation of export licences to multiple participants for designated markets in Schedule 5A

ss 26(3), 27

1 Notification of application dates

(1) The Minister must provide notice in the *Gazette* of the dates that applications for export licences for a quota year will open and close.

(2) The *Gazette* notice under subclause (1) must also specify the applicable Tariff headings that must be used for that quota year when submitting export volume history under clause 2.

2 Application requirements

(1) Each eligible participant must submit their export volume history for each designated market for which they are seeking an export licence (including if they are also seeking any reserve export licences as an eligible reserve participant).

(2) The data must be submitted to the chief executive (or a person authorised by the chief executive) by statutory declaration (as set out in Schedule 5C).

(3) Each eligible reserve participant who does not have any export volume history (and therefore has not submitted any data under subclause (1)) must submit a statutory declaration in accordance with subclause (2), confirming that they do not have any export volume history for each designated market for which they are seeking a reserve export licence.

(4) If an eligible participant or eligible reserve participant relies on an agent (for example a freight forwarder or consolidator) to export their products, the following statutory declarations must also be submitted in accordance with subclause (2):

- (a) a statutory declaration by the eligible participant confirming their business relationship with the agent; and
- (b) a statutory declaration by the agent, or by each agent if there is more than 1,—
  - (i) confirming their business relationship with the eligible participant; and
  - (ii) confirming that the data being submitted by the eligible participant under subclause (1) accurately records what the agent exported for the participant.

3 Specific Tariff headings for certain designated markets

(1) The following specific Tariff headings must be used for the purposes of calculating export volume history and total export volume history before allocating export licences to the following designated markets:

(a) for the Japan prepared edible fat market, the Minister must use Tariff heading 0405:

(b) for the European Union dairy processed agricultural products and high protein whey market, the Minister must use Tariff heading 0404.

(2) Where a Tariff heading published under clause 1(2) conflicts with the Tariff headings listed in this clause, the Tariff headings in this clause prevail.

4 Allocations

(1) Subject to this clause and clause 5, export licences for each designated market listed in Schedule 5A are allocated,—

(a) excluding any reserve export licences, proportionately to eligible participants based on their percentage of the total export volume history, as submitted under clause 2(1), up to the maximum number each participant has applied for or is eligible for; and

(b) where a portion of export licences have been reserved under section 26AA, to eligible reserve participants up to the maximum number each participant has applied for or is eligible for.

(2) Except where section 27A applies, the maximum number of export licences that an eligible reserve participant can be allocated is the number that equates to a volume of 200 tonnes of the product in a designated market, whether that is—

(a) through a combination of allocations under subclause (1)(a) and (b); or

(b) allocations made only under subclause (1)(b).

Example

Under subclause (2)(a), if an eligible participant is eligible for export licences to export 30 tonnes of the relevant product based on their export volume history, then they may also be allocated (as an eligible reserve participant) further export licences from the reserve portion up to an additional 170 tonnes of the product so that their total export licences equate up to 200 tonnes of the relevant product.

(3) Export licences allocated from the reserve portion under subclause (1)(b) or clause 5(1) cannot be traded under section 28A.

(4) Export licences may only be used for products for which the dairy components are derived only from New Zealand origin milk.

(5) An export licence is to be allocated—

(a) before the commencement of a quota year; and

(b) for a period of 1 quota year.

5 Excess or shortfall in reserve export licences applications

(1) If the applications for reserve export licences exceed the number of export licences available under the reserve portion, then the Minister must allocate the reserve export licences equally between the eligible reserve participants, up to the maximum number each participant applied for or is eligible for.

Example

There are 100 reserve export licences available for allocation.

Three people apply for 20 reserve export licences each and 7 people apply for 7 reserve export licences each. That is a total of 109 reserve export licences applied for, which exceeds the number available.

An even split would give each participant 10 reserve export licences. However, because 7 people have applied for only 7 reserve export licences, that means they can only be allocated 7 licences each (using 49 of the 100 reserve export licences available).

This leaves 51 reserve export licences, which are then split equally between the other 3 participants. These 3 participants would receive 17 reserve export licences each. Although they had applied for 20 reserve export licences each, there are not enough reserve export licences to meet the full number they applied for.

(2) If there are excess reserve export licences after allocations have been made under clause 4(1)(b), then the Minister must allocate the excess reserve export licences proportionately to eligible participants as though the excess was being allocated under clause 4(1)(a).

6 Notification of allocations

The Minister must ensure all allocations of export licences are notified in the *Gazette*.

Legislative history

10 October 2024	Introduction (Bill 88–1)
15 October 2024	First reading and referral to Primary Production Committee
19 March 2025	Reported from Primary Production Committee (Bill 88–2)
25 March 2025	Second reading, committee of the whole House, third reading
29 March 2025	Royal assent

This Act is administered by the Ministry for Primary Industries.

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